REMARKS

In the outstanding Office Action, claims 1 to 27 were presented for examination. Claims 24, 26 and 27 were rejected on formal grounds under 35 U.S.C. § 112. In addition, rejection was advanced variously on the basis of 35 U.S.C. § 103 against claims 13-26 as being unpatentable over a reference to Hatton, International Patent Publication No. WO 00/77672 A2.

Telephone Interview

Examiner Alvarez 's courtesy in conferring with the undersigned by telephone on May 2, 2006, to clarify the statutory basis for applying the reference cited in the action, is greatly appreciated by applicant.

Claim Amendments

In this amendment, applicant has amended claims 17, 24, 26 and 27 and added new claims 28-33.

Claim 17 has been amended in a minor respect, to broaden it to include the singular as well as the plural, by reciting "a" referring website in clause (d) rather than "a plurality of websites". In addition, Claims 24, 26 and 27 have been amended to address the 35 USC § 112 rejection, as explained below.

New claims 28-30 find support in the specification at page 12, lines 2-3 (claim 28), page 16, lines 1-2 (claim 29) and page 16, lines 4-6.

New claim 31 has been added reciting a plurality of referring websites as was explicitly recited in claim 17 prior to this amendment.

New claims 31 and 32 recite elements of the claimed invention which previously appeared in now-cancelled claims 6 and 12 respectively.

As will be discussed in detail below, it is believed that the application is now in condition for allowance. Reconsideration and allowance are respectfully requested.

Claim Rejections Under 35 USC § 112

Claims 24, 26 and 27 have been amended, without narrowing, to overcome the rejection under 35 USC § 112 by qualifying the references to the website as the "employment sourcing" or "referring" website. The new language serves to make explicit matter that was inherent in the respective claim before amendment. Accordingly, applicant respectfully requests reconsideration and withdrawal of this rejection.

There being no other objections to, or rejections of, claim 27, claim 27 is believed clearly allowable and allowance thereof is respectfully requested.

Claim Rejections Under 35 USC § 103(a)

Turning now to the rejection of claims 13-26 for unpatentability under Under 35 USC § 103, although reference has been made to Section 102 of Title 35, the subsection under which the Hatton reference is allegedly available was not specified in the Office action.

Pursuant to the Examiner's telephone conference with the undersigned on May 2, 2006, applicant understands that the Hatton reference is cited under 35 USC § 102(e). In this regard, applicant notes that Hatton was published on 21 December 2000, which is after applicant's filing date of November 10, 2000. Accordingly, Hatton is not available under 35 USC § 102(a) or (b).

However, applicant submits that Hatton is unavailable as a reference under 35 USC § 102(e). Hatton's filing date is 15 June 2000. International applications that were

filed prior to November 29, 2000 are subject to the former (pre-AIPA) version of 35 U.S.C. § 102(e) which is set forth below.

> *Former 35 U.S.C. 102. Conditions for patentability; novelty and loss of right to patent.*
> A person shall be entitled to a patent unless
>
> *****
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.
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(See MPEP § 2136.) Hatton is not a patent granted on an application for patent filed in the United States before, or a patent granted on an international application. It is a "WIPO publication directly resulting from an international application". Accordingly, Hatton does not qualify as available art under 35 U.S.C. § 102(e). (See MPEP § 2136.03 II(C)(2).) It follows that the rejections based upon Hatton are improper. Accordingly, applicant respectfully requests that the rejection based upon Hatton be withdrawn and claims 13-26 be allowed, along with claim 27.

It is noted that Hatton does not in fact designate the United States.

Notwithstanding its unavailability as art, the disclosure of Hatton is believed by applicant to be not remotely relevant to applicant's claimed invention. Hatton discloses administering skill assessment exams to prospective employment candidates, for clients, over a network, for example a network such as the Internet (Hatton, *abstract*).

In essence, Hatton 's disclosure is limited to skill-assessment test taking. In contrast, applicant's method, as claimed in base claims 13 and 17, for the first time provides a network-implemented method of sourcing and qualifying website-visitor candidates for employer clients. Thus, applicant's claimed method brings qualified candidates (website visitors) to the employer client which is something Hatton does not teach or suggest. Rather, Hatton administers skill-assessment tests to candidates who

are already known to the employer client. For example, "*The client passes the access code to any candidate 140 that the client wishes to be tested (step 7).*" (Hatton, page 8, lines 15-16).

Furthermore, applicant's claims 13 and 17 call for implementing a charge (claim 13, clause (m)) or credit (claim 17, clause (k)) in response to a favorable scoring determination that information on a particular visitor candidate should be sent to an employer client. Since Hatton is silent as to how charges are to be made, one skilled in the art would understand charging to be effected in a known manner, possibly as described in the noticed subject matter wherein employers would be charged for each and every test administered, regardless of the candidate's score. Pursuant to this putative method suggested by the Office, an employer client would pay for failing candidates to take tests. Pursuant to applicant's claimed method, the employer client can pay for information on successful candidates which have been located and brought forward to the employer client by the claimed method; which is something quite different from Hatton. Thus, for the foregoing reasons alone, applicant's claimed invention is believed to be patentably distinguished from Hatton, even as modified by what has been officially noticed by the Patent Office,.

Still further, there are additional reasons why Hatton neither discloses nor suggests applicant's claimed invention, even when taking account of the officially noticed subject matter. For example, Hatton does not disclose or suggest implementing an employment sourcing website on a network as set forth in clause (a) of applicant's claims 13 and 17. It follows that Hatton does not disclose related elements of claims 13 and 17 that reference the employment sourcing website. In addition, Hatton neither discloses nor suggests features of applicant's claims such as the clicking of an employment hyperlink, the mimicking of an organization specific website (claim 13, clause (f)) or the presenting of an employment hyperlink on a plurality of referring websites (claim 17, clause (d)).

In some respects, Hatton appears to lack disclosure to support what the Office action states that Hatton teaches. For example, in Hatton's Fig. 1, there appears to be no employment sourcing website and no employment hyperlink as stated by the Office on page 3, lines 3-4 of the action. Reference 100 is a client, not an employment source for Hattan's purposes, and the context of Fig. 1 is that of test taking not that of employment sourcing. Further, the presenting of an employment sourcing website in a style which mimics the first organization specific website (Office action page 3, lines 6-7) does not appear to be disclosed by Hatton. There may be additional respects in which Hatton does not support the Office's characterization of it, but it does not appear necessary to mention them here in light of the unavailability of Hatton as a reference and the patentably meaningful distinctions from Hatton that are recited in applicant's claims, as set forth above herein.

Accordingly, not only is Hatton unavailable as a reference, but applicant's independent base claims 13 and 17 are believed to be patentably distinguished from Hatton, or any other reference known to applicant and therefore allowable. Allowance of claims 13 and 17 is respectfully requested.

Dependent claims 14-16 and 18-26 are believed patentable at least for the reasons that claims 13 and 17 are believed to be patentable and are additionally patentably distinguished from Hatton, or any other reference known to applicant, for the additional subject matter each recites. Allowance of dependent claims 14-16 and 18-26 is also respectfully requested.

Applicant's claimed invention provides a method enabling the employer client's own criteria to be used to screen candidates . The method can determine in real time whether a candidate suits a particular job based on these criteria and the candidate's qualifications. Furthermore, the source of a candidate can be tracked and a referral fee

paid to the source, for example employing the method defined by claim 32 or claim 33, or in other suitable manner as will be apparent from applicant's specification.

With respect to new claims, because the questions put to the candidate can be associated with each employment position, the scoring criteria for the answers can be set by the employer client offering the employment position. A client value may be attributed to an individual test question, for example, as claimed in new claim 28, whereby the same question could have different values for different employer clients.

In yet another optional feature of the claimed invention, as defined in new claims 29 and 30, the employer client can be provided an opportunity to review and approve a website visitor's submission of information and the approval can be used to trigger a check for and payment of a referral fee, if appropriate. None of these additional features is remotely suggested by Hatton.

Applicant also cannot entirely agree with the Office's conclusions as to the state of the art as represented by the additional takings of official notice that are set forth on pages 4 and 5 of the Office action. For example, in connection with claims 14-16, the Office takes notice that modification of Hatton "would allow flexibility...etc.". It is unclear to applicant how official notice can extend to modification of a reference. If continued reliance is to be placed by the Office on the alleged knowledge described in the several Official notices in the outstanding Office action, the Office is respectfully requested to provide documentary evidence of each and every one of same to avoid possible misstatement of the knowledge of the art.

In view of the above amendments and the discussion relating thereto, it is respectfully submitted that the instant application, as amended, is in condition for allowance. Such action is most earnestly solicited. If for any reason the Examiner feels that consultation with Applicant's representative would be helpful in the advancement

of the prosecution, they are invited to call the undersigned at the telephone number below for an interview.

Respectfully submitted,

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